

21 C.J.S. Courts § 80

Corpus Juris Secundum | May 2023 Update

Courts

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II. Jurisdiction of Courts

G. Discretion of Court to Exercise or Decline Jurisdiction

1. General Considerations

§ 80. General discretion of court to exercise or decline jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  26(2), 26(3), 28.5(1)

In matters properly before the court and within its jurisdiction, the court generally must exercise discretion in deciding whether to exercise or decline jurisdiction.

In matters properly before the court and within its jurisdiction, the court's exercise of its inherent authority is essentially discretionary, subject to review for an abuse of discretion.¹ The court generally must exercise discretion in deciding whether to exercise or decline jurisdiction,² subject to abuse of the court's discretion,³ or a most unwise exercise of its discretion.⁴

The question of judicial abuse of discretion is generally one of court error and not of the court's jurisdiction or authority,⁵ and the failure to exercise discretion in determining whether to exercise or decline jurisdiction is, when erroneous, itself reversible error.⁶

In some contexts or matters, the courts, if possessed of subject matter jurisdiction, must exercise it,⁷ and have a responsibility to decide cases before them.⁸

The exercise of jurisdiction is not a matter of the court's discretion when the court lacks subject matter jurisdiction⁹ or lacks personal jurisdiction.¹⁰

CUMULATIVE SUPPLEMENT

Cases:

Subject matter jurisdiction, like jurisdiction over the person, is not a subject of judicial discretion. *Sherard v. State*, 2022 WY 37, 505 P.3d 1259 (Wyo. 2022).

[END OF SUPPLEMENT]

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Footnotes

- 1 Utah—*Warner v. Warner*, 2014 UT App 16, 319 P.3d 711 (Utah Ct. App. 2014).
- 2 Ark.—*Shields v. Kimble*, 2010 Ark. App. 479, 375 S.W.3d 738 (2010).

Ky.—*S.B. v. M.C.*, 352 S.W.3d 345 (Ky. Ct. App. 2011).

Md.—*Miller v. Mathias*, 428 Md. 419, 52 A.3d 53 (2012).

N.Y.—*Extell Belnord LLC v. Uppman*, 113 A.D.3d 1, 976 N.Y.S.2d 22 (1st Dep't 2013).

Tex.—*Anambra State Community in Houston, Inc. v. Ulasi*, 412 S.W.3d 786 (Tex. App. Houston 14th Dist. 2013).

As to the court's discretion to abstain from the exercise of jurisdiction, see § 81.

As to forum non conveniens as the basis of the court's discretion to decline jurisdiction, see §§ 82 to 87.
- 3 Ark.—*Shields v. Kimble*, 2010 Ark. App. 479, 375 S.W.3d 738 (2010).

Ky.—*S.B. v. M.C.*, 352 S.W.3d 345 (Ky. Ct. App. 2011).

Neb.—*State v. Braesch*, 292 Neb. 930, 874 N.W.2d 874 (2016).

Ohio—*DiPasquale v. Costas*, 186 Ohio App. 3d 121, 2010-Ohio-832, 926 N.E.2d 682 (2d Dist. Montgomery County 2010).

Tex.—*Anambra State Community in Houston, Inc. v. Ulasi*, 412 S.W.3d 786 (Tex. App. Houston 14th Dist. 2013).
- 4 Ky.—*S.B. v. M.C.*, 352 S.W.3d 345 (Ky. Ct. App. 2011).
- 5 Va.—*Singh v. Mooney*, 261 Va. 48, 541 S.E.2d 549 (2001).
- 6 Ark.—*Gullahorn v. Gullahorn*, 99 Ark. App. 397, 260 S.W.3d 744 (2007).
- 7 Tex.—*PR Investments and Specialty Retailers, Inc. v. State*, 251 S.W.3d 472 (Tex. 2008).
- 8 Nev.—*N. Lake Tahoe Fire v. Washoe Cnty. Comm'rs*, 310 P.3d 583, 129 Nev. Adv. Op. No. 72 (Nev. 2013).
- 9 Conn.—*Kizis v. Morse Diesel Intern., Inc.*, 260 Conn. 46, 794 A.2d 498 (2002).

Wyo.—*Geerts v. Jacobsen*, 2004 WY 148, 100 P.3d 1265 (Wyo. 2004).

Tex.—*Taub v. Aquila Southwest Pipeline Corp.*, 93 S.W.3d 451 (Tex. App. Houston 14th Dist. 2002).

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Wyo.—*Geerts v. Jacobsen*, 2004 WY 148, 100 P.3d 1265 (Wyo. 2004).

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